

materially impaired by virtue of the provisions of said Bill; and that the Governor of the State of Texas is urged and requested to veto said Senate Bill 78 in its entirety; and that the desirable features of the Bill designed to protect municipal utilities be re-enacted in a Bill at the next session of the Legislature with the detrimental features eliminated.

The resolution was adopted by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

Communications from Geo. S. Nalle and Marion Fowler, urging forfeiture of the contract held by the Austin Dam, Inc., for the rebuilding of the Austin dam, were received and filed.

There being no further business before the Council, Councilman Wolf moved to recess, subject to call of the Mayor. The motion was seconded by Councilman Alford and carried by the following vote: Ayes, Councilmen Alford, Gillis, Mayor Miller, and Councilman Wolf, 4; nays, none; Councilman Bartholomew absent, 1.

The Council then recessed.

Attest:

Harri McFellor City Clerk

Approved:

Tom Miller
Mayor.

SPECIAL MEETING OF THE CITY COUNCIL:

Austin, Texas, October 20, 1933.

The Council met at 2:00 o'clock P. M., with the following members present: Councilmen Alford, Bartholomew, Gillis, Mayor Miller, and Councilman Wolf, 5; absent, none.

The Mayor announced that the meeting was called for the purpose of hearing the representatives of the Austin Dam, Inc., in their petition for an extension of time on their contract for the completion of the Austin Dam.

Mr. A. S. Grenier, President, Judge Joe A. Worsham and Judge Ireland Graves, Attorneys of the Austin Dam, Inc., were present and presented arguments in support of their request for a renewal of their contract and submitted the following written proposal:

"Austin, Texas, October 20, 1933.

To the Mayor and City Council
of the City of Austin,

Austin, Texas.

Gentlemen:

By ordinance duly enacted on the 4th day of February, 1932, subject to the terms, covenants and conditions therein prescribed, the City of Austin granted to the undersigned Austin Dam, Inc., and its assigns, the right and franchise to hold and use what is known as the Austin Dam and structures on the Colorado River, and all lands adjacent thereto belonging to the City, including the power house, machinery, equipment, appurtenances and rights-of-way, with the understanding and agreement that if the Austin Dam, Inc., should fail to commence the work of rehabilitating said Dam and Hydro Electric Plant on or before November 28, 1933, or if after having commenced said work, it should fail to prosecute same with diligence, and as a result thereof should fail to complete said Plant on or before November 28, 1935, etc., at the option of the City of Austin, all of the rights, privileges

and franchises therein granted should terminate, and Austin Dam, Inc., should surrender, and by its acceptance of said Franchise agreed and obligated itself and assigns to surrender, the use of said Plant, Dam and premises to the City of Austin.

The postponement of the date of commencement of the work of rehabilitation, as well as of completion of the project, was in recognition of the distressed financial conditions then prevailing, and the absence of a demand for the output of such Plant, and the dates fixed for such commencement and completion were in anticipation of an improvement of those conditions.

As acute as those conditions were at the time of the passage of said Ordinance, it will be readily conceded that they have not improved, but have grown steadily worse, and no one would be bold enough to predict when they will become normal.

As a result of those conditions, it has not only become difficult, but impracticable, to secure the necessary funds with which to carry on said work; and certain it is, that, if completed, the project would be without commercial value, because there is not now, and doubtless will not be in the near future, a market in which the output of such Plant could be disposed of at a fair profit. Instead of there being a demand, at a reasonable price, for the output of such Plant, as both Parties anticipated, it is a well-known fact that there is now, and it is believed there will continue to be for an indefinite period, a large surplus of power in the immediate vicinity of said plant, of which no profitable disposition can be made.

In these circumstances, which are taxing the ingenuity and resources of not only every business and industry, but of the Nation itself, to survive, it is believed that Your Honorable Body will not find it consistent with the best interests of the City to require that the work of rehabilitation of said Dam and structures be commenced or completed within the time prescribed by said Ordinance.

Under the terms of said Ordinance, the Austin Dam, Inc. obligated itself, during the forty (40) year period of said Franchise, commencing at the date of completion of said Dam, and not later than November 28, 1935, to furnish to the City, free of charge, Four Million (4,000,000) Kilowatt Hours of electric energy per annum, to be delivered to the City at the Hydro Electric Plant Bus, at the voltage and with the frequency and power factor, and in the manner, and within the time, therein specified.

While the Austin Dam, Inc. assumed no responsibility for the maintenance and upkeep of said Dam and structures prior to its commencement of the work of rehabilitation thereon, and does not now assume any responsibility, it is advised that the Reservoir created thereby constitutes the source of water supply of the City and its inhabitants; and that as a result of floods in the Colorado River, logs and other debris have lodged on and accumulated around the piers constituting a part of said Dam, which it is contended not only endanger said structure, but tend to pollute or contaminate the water supply of the City of Austin.

In view of all of the circumstances, and particularly in view of its desire to cooperate with the City, as far as it may consistently do so, in preserving whatever value the City has in said Dam and structures, and in the rehabilitation thereof, and especially in relieving apprehension as to contamination of its water supply by said logs and debris, in consideration of the City's waiving that provision of said Ordinance requiring that work of rehabilitation be commenced on or before November 28, 1933, and that it be completed on or before November 28, 1935, and that said Contract be extended so that the dates of commencement and completion of said work shall be postponed for a period of two (2) years, respectively, the Austin Dam, Inc. will bind and obligate itself, its successors and assigns, to deliver, or cause to be delivered, free of charge, from November 28, 1935, to the City of Austin, at the Hydro Electric Plant, or any other point mutually agreed upon, the Four Million (4,000,000) Kilowatt Hour electric energy per annum specified in said Ordinance, until said work of rehabilitation of said Dam and structures has been completed, and placed in operation - and thereafter, in accordance with the provisions of said Ordinance, unless and until Austin Dam, Inc., its successors and assigns, shall have relinquished in writing to the City of Austin all of its right, title and interest in and to said Dam, structures, etc., and shall have returned possession of said Dam to the City, or its nominee.

In addition thereto, the Austin Dam, Inc. further agrees that, regardless of the date of completion of said Dam, structures, etc., the term of the franchise granted in said Ordinance shall not be extended, and shall expire and be terminated in the manner and within the time provided in said Ordinance.

In further consideration of such extension, and during the term thereof, the Austin Dam, Inc. will bind and obligate itself, its successors and assigns, to spend whatever sum may be reasonably necessary, (not to exceed One Thousand Dollars per annum), in the manner in which it deems most expedient, in removing the logs and other debris that has now accumulated on the surface around and near said Dam and structures, and to prevent the further accumulation thereof during the term of such extension, or until such time as it shall have relinquished in writing to the City of Austin all right, title or interest that it has, or may have, in and to said Dam, structures, etc., and shall have returned the possession thereof to the City of Austin, or its nominee.

It is to be understood that the Austin Dam, Inc. does not now assume any responsibility for such accumulation, or for any injury or damage that may be claimed to have resulted therefrom; and that it does not assume any responsibility therefor in the future, save and except upon the conditions hereinabove stated, it agrees to expend, in a good and workmanlike manner, such sum as may be reasonably necessary, (not to exceed One Thousand Dollars per annum), to remove and prevent such accumulation; and it agrees to forthwith expend such sum, if reasonably necessary, in removing the present accumulation of logs and debris, with the understanding that the amount so expended shall be considered a part of the One Thousand Dollars which it has agreed to expend per annum in removing or preventing such accumulation, and that it shall not be required to expend any further sum until the twelve months period shall have fully expired.

Of course it is also to be understood that in making this proposal, and in its acceptance by the City of Austin, both Parties agree that said Contract, as evidenced by said Ordinance, the Decree of the Court, and the Agreement of the Parties, to which the Ordinance